Government of Kerala
1976

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

No. G. O. (MS) 27/76/LBR. *Dated, Trivandrum, 13th March 1976.*

S. R. O. No. 308/76.—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Kerala hereby make the following amendments to the Kerala Industrial Disputes Rules, 1957, the same having been previously published as required by sub-section (1) of the said section.

AMENDMENTS

1. In the Kerala Industrial Disputes Rules, 1957,—

(a) after rule 75B the following rule shall be inserted, namely:—

"*75BB. Application for permission to lay off under section* 25*M*.—(1) Application for permission to lay-off any workman under sub-section (1),

or for permission to continue a lay-off under sub-section (2), of section 25M shall be made in Form 0-3 and delivered to the authority specified under sub-section (1) either personally or by registered post with acknowledgement due and where the application is sent by registered post the date on which the same was delivered to the said authority shall be deemed to be the date on which the application was made, for the purposes of sub-section (4) of the said section.

(2) The application for permission shall be made in triplicate and sufficient number of copies of the application for service on the workmen concerned shall also be submitted along with the application.

(3) The employer concerned shall furnish to the authority to whom the application for permission has been made such further information as the authority considers necessary for arriving at a decision on the application, as and when called for by such authority, so as to enable the authority to communicate the permission or refusal to grant permission within the period specified in sub-section (4) of section 25M.

(4) Where the permission to lay-off has been granted by the said authority, the employer concerned shall give to the Labour Commissioner a notice of commencement and termination of such lay-off in Form 0-1 and 0-2 respectively and where permission to continue a lay-off has been granted by the said authority, the employer shall give to the Labour Commissioner a notice of commencement of such lay-off in Form 0-1, in case such a notice has not already been given under sub-rule (1) of rule 75B and a notice of termination of such lay-off in Form 0-2.

(5) The notice of commencement and termination of lay-off referred to in sub-rule (4) shall be given within the period specified in sub-rule (1) of rule 75B".

(b) rule 76A shall be re-numbered as rule 76B and—

(i) before rule 76B as so re-numbered, the following rule shall be inserted, namely:—

"76A. *Notice of, and application for permission for, retrenchment.*—(1) Notice under clause (c) of sub-section (1) of section 25N for retrenchment shall be served in Form PA and served on the Government or such authority as may be specified by the Government under the said clause either personally or by registered post with acknowledgement due and where the notice is served by registered post, the date on which the same was delivered to the Government or the authority shall be deemed to be the date of service of the notice for the purposes of sub-section (3) of the said section.

(2) Application for permission for retrenchment under sub-section (4) section 25N shall be made in Form PB [with attested copy of the notice

given by the employer under clause (a) of section 25F appended thereto] and delivered to the Government or to such authority as may be specified by the Government either personally or by registered post with acknowledgement due and where the application is sent by registered post the date on which the same was delivered to the Government or the authority shall be deemed to be the date on which the application was made for the purposes of sub-section (5) of the said section.

(3) The notice or as the case may be; the application shall be served or made in triplicate and sufficient number of copies of the application for service on the workmen concerned shall be submitted along with the notice or, as the case may be, the application.

(4) The employer concerned shall furnish to the Government or the authority to whom the notice for retrenchment has been given or the application for permission for retrenchment has been made, under clause (c) of sub-section (1) or, as the case may be, sub-section (4) of the said section 25N, such further information as the Government, or as the case may be, the authority considers necessary for arriving at a decision on the notice or, as the case may be, the application, as and when called for by such authority so as to enable the Government or the authority to communicate its permission or refusal to grant permission within the period specified in sub-section (3) or, as the case may be, sub-section (5) of the said section 25N.";

(ii) After rule 76B as so renumbered the following rule shall be inserted, namely:—

"76C. *Notice of, and application for permission for, closure.*—(1) Notice under sub-section (1) of section 25-0 of intended closure shall be given in Form QA and served on the Government either personally or by registered post with acknowledgement due.

(2) Application for permission to close down an undertaking, under sub-section (3) of section 25-0, shall be made in Form QB [with attested copy of the notice served by the employer under sub-section (1) of section 25FFA appended thereto] and delivered to the Government either personally or by registered post with acknowledgement due and where the application is sent by registered post the date on which the same was delivered to the Government shall be deemed to be the date on which the application was made for the purposes of sub-section (4) of the said section.

(3) The notice; or; as the case may be, the application shall be made in triplicate.

(4) The employer concerned shall furnish to the Government to whom the notice of intended closure has been given or the application for permission to close down has been made such further information as the Government considers necessary, for arriving at a decision on the notice, or, as the case may be, the application, and calls for from such employer."

(c) after Form 0-2, the following form shall be inserted, namely:—

"FORM 0-3

(To be submitted in triplicate with additional number of copies for service on the workmen concerned)

[*See* rule 75 BB (1)]

Form of application for permission to lay-off workmen in industrial establishments to which provisions of Chapter VB of the Industrial Disputes Act, 1947 (14 of 1947) apply.

To

....

....

....

[The authority specified under sub-section (1) of section 25M of the Act].

Sir,

Under sub-section (1)/sub-section (2) of section 25M of Industrial Disputes Act, 1947 (14 of 1947) read with sub-rule (1) of rule 75BB of the Kerala Industrial Disputes Rules, 1957 I/we hereby apply for* permission to lay-off/permission to continue the lay-off of........workmen of a total of............workmen employed in my/your establishment with effect from ....for the reasons set out in the Annexure.

Permission is solicited* for the lay-off/to continue the lay-off of the said workmen.

Such of the workmen permitted to be laid-off will be paid such compensation, if any, to which he is entitled under sub-section (6) of section 25M, read with section 25C, of the Industrial Disputes Act, 1947 (14 of 1947).

Yours faithfully,

(Signature.)

*Strike out whatever is inapplicable.

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the undertaking with complete postal address, including telegraphic addresses and telephone number.

1A. Name (s) of Registered Trade Union (s).

2. (a)* Names and addresses of the affected workmen proposed to be laid-off/names and addresses of the workmen laid off before the commencement of the Industrial disputes (Amendment) Act, 1976 (32 of 1976) and the dates from which each of them have been laid off.

   (b) The nature of the duties of the workmen referred to in sub-item (a), the units/sections/shops where they are working and the wages drawn by them.

3. Product/Products of the undertaking.

4. Details relating to installed capacity, liceneed capacity and utilised capacity.

5. (i) Annual production, item-wise for preceding three years.

   (ii) Production figures, month-wise, for the preceding twelve months.

6. Work-in-progress, item-wise and value-wise.

7. Any arrangements regarding off-loading or sub-contracting of products or any components thereof.

8. Position of the order book, item-wise and value-wise for a period of six months, and one year, next following and for the period after thr expiry of the said one year.

9. Number of working days In a week with the number of shifts per day and the strength of workmen per each shift.

10. Balance-Sheets, profit and loss accounts and audit reports for the last three years.

11. Financial position of the company.

12. Name of the inter-connected companies or companies under the same management.

13. (i) The total number of workmen and the number of employees other than workmen as defined under the Industrial Disputes Act, 1947 (14 of 1947), employed in the undertaking.

(ii) Percentage of wages of workmen to the total cost of production.

14. Administrative, general and selling cost in absolute terms per year in the last three years and percentage thereof to the total cost.

15. Details of lay-offs resorted to in the last three years (other than the lay-off for which permission is sought), including the periods of such lay-offs, the number of workmen involved in each such lay-off and the reasons therefor.

16. Anticipated savings due to the * proposed lay-off/lay-off for the continuance of which permission is sought.

17. Any proposal for effecting savings on account of reduction in—

(i) managerial remuneration,
(ii) sales promotion cost, and
(iii) General administration expenses.

18. Position of stocks on last day of the month in the preceding twelve months.

19. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months, both item-wise and value-wise.

20. Reasons for the * proposed lay-off/lay-off for the continuance of which permission is sought.

21. Any specific attempts made so far to avoid the *proposed lay-off/lay-off for the continuance of which permission is sought.

22. Any other relevant factors with details thereof".;

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* Strike out whatever is inapplicable.

(d) after Form P, the following forms shall be inserted, namely:—

"FORM PA

(To be made in triplicate with additional number of copies for service on the workmen concerned)

[*See* rule 76A (1)]

Form of notice for permission for retrenchment of workmen to be given by an employer under clause (c) of sub-section (1) of section 25N of the Industrial Disputes Act, 1947 (14 of 1947)

Date.................

To

....

....

* ....

[The Kerala Government/The authority specified under clause (c) of sub-section (1) of section 25N of the Act].

Sir,

Under clause (c) of sub-section (1) of section 25N of the Industrial Disputes Act, 1947 (14 of 1947), I/We hereby inform you that I/We propose to retrench...............workmen (being workmen to whom sub-section (1) of section 25N applies) with effect from ....for the reasons set out in the Annexure.

2. The workmen concerned have been given notice in writing as required under clause (a) of sub-section (1) of section 25N of the Act/have not been given notice since the retrenchment being proposed to be effected under an agreement (a copy of which is enclosed) as provided in the proviso to the said clause.

3. The total number of workmen employed in the industrial establishment is.......................and the total number of those who will be affected by the proposed retrenchment is as given below:—

1 (Category and designation of workmen to be retrenched	Number of workmen .... (Employed)	(to be retrenched)
(1)	(2)	(3)

* Strike out whatever is inapplicable.

4. Permission is solicited for the proposed retrenchment, under clause (c) of sub-section (1) of section 25N of the Industrial Disputes Act, 1947 (14 of 1947).

5. I/We hereby declare that the workmen permitted to be retrenched will be paid compensation due to them under clause (b) of sub-section (1) of section 25N of the Act.

Yours faithfully,

(Signature)

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the undertaking with complete postal address, including telegraphic addresses and telephone number

1A. Name(s) of Registered Trade Union(s)

2. Names and addresses of the workmen proposed to be retrenched and the nature of their duties, the units/sections/shops where they are working and the wages drawn by them

3. Product/products of the undertaking

4. Details relating to installed capacity, licensed capacity and the utilised capacity

5. (i) Annual production, item-wise for preceding three years

   (ii) Production figures month-wise for the preceding twelve months

6. Work in progress—Item-wise and value-wise

7. Any arrangement regarding off-loading or sub-contracting of products or any components thereof

8. Position of the order book—item-wise and value-wise for a period of six months and one year next following

and for the period after the expiry of the said one year

9. Number of working days in a week with number of shifts per day and strength of workmen per each shift

10. Balance Sheet, profit and loss account and audit reports for the last three years

11. Financial position of the company

12. Names of the inter-connected companies or companies under the same management

13. (i) The total number of workmen and the number of employees other than workmen as defined in the Industrial Disputes Act, 1947 (14 of 1947); employed in the undertaking

(ii) Percentage of wages of workmen to the total cost of production

14. Administrative, general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost

15. Details of retrenchment resorted to in the last three years, including dates of retrenchment, the number of workmen involved in each case, and the reasons therefor

16. Has any of the retrenched workmen been given re-employment and if so, when? Give details

17. Are seniority lists maintained in respect of the categories of workmen proposed to be retrenched and if so, the details and the position of the workmen affected indicating their length of service including broken periods of service?

18. Anticipated savings due to the proposed retrenchment

19. Any proposal for effecting savings on account of reduction in

(i) managerial remuneration,

(ii) sales promotion cost, and

(iii) general administration expenses

20. Position of stock on the last day of the month in the preceding twelve months

21. Annual sales figures for the last three years and month-wise sales figures—for the preceding twelve months both item-wise and value-wise

22. Reasons for the proposed retrenchment

23. Any specific attempt made so far to avoid the proposed retrenchment

24. Any other relevant factors with details thereof

FORM PB

(To be made in triplicate with additional number of copies for service on the workman concerned)

[*See* rule 76A (2)]

Form of application for permission for retrenchment of workmen in cases where at the commencement of the Industrial Disputes (Amendment) Act, 1976 (Act 32 of 1976), the period of notice given under clause (a) of Section 25F for the retrenchment has not expired

Date.

To

....

....

....

[The Kerala Government/The authority referred to in sub-section (2) of section 25N of the Act].

Sir,

I/We have given notice on.....................under clause (a) of section 25F for the retrenchment of the workman/workmen specified below (Attested copy/copies of the notice is/are appended hereto):—

Name and address of workmen	Category and designation
(1)	(2)

2. The period of notice referred to above has not expired.

3. I/We hereby solicit permission for the retrenchment of the workmen referred to above under sub-section (4) of section 25N of the Industrial Disputes Act, 1947 (14 of 1947) for the reasons set out in the Annexure.

Yours faithfully,

(Signature)

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the undertaking with complete postal address, including telegraphic addresses and telephone number

1A. Name(s) of Registered Trade Union(s)

2. (a) Names of the workmen proposed to be retrenched and the nature of their duties, the units/sections/shops where they are working and the wages drawn by them.

   (b) Date of the notice of retrenchment given to the workman concerned under section 25F (a) and the dates on which the said notice was served on each workman concerned

3. Product/products of the undertaking

4. Details relating to installed capacity, licensed capacity and the utilised capacity

Item No.

5. (i) Annual production, item-wise for preceding three years

(ii) Production figures month-wise for the preceding twelve months

6. Work in progress—item-wise and value-wise

7. Any arrangement regarding off-loading or sub-contracting of products or any components thereof

8. Position of the order book—item-wise and value-wise for a period of six months, and one year, next following and for the period after the expiry of the said one year

9. Number of working days in a week with number of shifts per day and strength of workmen per each shift

10. Balance Sheet, profit and loss account and audit reports for the last three years

11. Financial position of the company

12. Names of the inter-connected companies or companies under the same management

13. (i) The total number of workmen and the number of employees other than workmen as defined in the Industrial Disputes Act, 1947 (14 of 1947), employed in the undertaking

(ii) Percentage of wages of workmen to the total cost of production

14. Administrative, general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost

15. Details of retrenchment resorted to in the last three years, including the date of retrenchment, the number of workmen involved in each case and the reasons therefor

Item No.

16. Has any of the retrenched workmen been given re-employment and if so, when? Give details

17. Are seniority lists maintained in respect of the categories of workmen proposed to be retrenched and if so, the details and the position of the workmen affected indicating their length of service including broken periods of service?

18. Anticipated savings due to the proposed retrenchment

19. Any proposal for effecting savings on account of reduction in—
    (i) managerial remuneration;
    (ii) sales promotion cost; and
    (iii) general administration expenses

20. Position of stock on the last day of the month in the preceding twelve months

21. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months—both item-wise and value-wise

22. Reasons for the proposed retrenchment

23. Any specific attempt made so far to avoid the proposed retrenchment

24. Any other relevant factors with details thereof";

(e) after Form Q, the following forms shall be inserted, namely:—

"FORM QA

(To be submitted in triplicate)

[*See* rule 76C (1)]

Form of notice for permission of closure to be given by an employer under sub-section (1) of Section 25-0 of the Industrial Disputes Act, 1947 (14 of 1947)

Date.

To

The Secretary to Government,
Labour Department, Trivandrum.

Sir,

Under Section 25-0 of the Industrial Disputes Act, 1947 (14 of 1947), I/We hereby inform you that I/We propose to close down the undertaking specified below of—*(Name of the industrial establishment).*

(Give details of the undertaking)

....

....

....

with effect from...........................for the reasons explained in the Annexure.

2. The number of workmen whose services will be terminated on account of the closure of the undertaking is..................(number of workmen).

3. Permission is solicited for the proposed closure.

4. I/We hereby declare that in the event of approval for the closure being granted, every workman in the undertaking to whom sub-section (7) of the said section 25-0 applies will be given notice and paid compensation as specified in section 25N of the Industrial Disputes Act, 1947 (14 of 1947) as if the workman had been retrenched under that section.

Yours faithfully,

(Signature)

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the industrial establishment with complete postal address, including telegraphic addresses and telephone number

1A. Name(s) of Registered Trade Union(s)

2. The total number and categories of workmen affected by the proposed closure, along with the addresses of the workmen and the details of wages drawn by them

3. Product/products of the undertaking

4. Details relating to licensed capacity, installed capacity and the utilised capacity

5. (i) Annual production, item-wise for preceding three years

   (ii) Production figures month-wise for the preceding twelve months

6. Work in progress—item-wise and value-wise

7. Any arrangement regarding off-loading or sub-contracting of products or any component thereof

8. Details of persons or the organisations to whom the job(s) is (are) being entrusted-relationship/interest of the persons/organisations with the director(s) or the officer(s) of the company

9. Position of the order book—item-wise and value-wise for a period of six months, and one year, next following and for the period after the expiry of the said one year

10. Number of working days in a week with the number of shifts per day and the strength of workmen per each shift

Item No.

11. Balance sheet and profit and loss account and audit reports for the last three years

12. Financial position of the company

13. (i) Names of any interconnected company or companies under the same management

    (ii) Details about intercorporate investments and changes during the last one year

    (iii) Interest of any of the directors/officers of the undertaking producing same or similar type of product

14. Percentage of wages of workmen to the total cost of production

15. Administrative, general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost

16. Inventory position—item-wise and value-wise for the preceding twelve months (Inventories to be shown in respect of finished products, components and raw materials to be shown separately item-wise and value-wise)

17. Selling arrangement for the last three years and any change in the selling arrangement in preceding twelve months

18. Full details of the interests of the directors and officers of the company in the organisations/persons involved in selling products of the undertaking

19. Buying arrangements for raw materials and components

20. Interests of the directors and officers with the organisations/persons involved in buying raw materials and components for the undertaking

21. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months—both item-wise and value-wise

22. Reasons for the proposed closure

23. Any specific attempts made so far to avoid the closure

24. Any other relevant factors with details thereof."

FORM QB

(To be submitted in triplicate)

[*See* rule 76C (2)]

Form of application for permission to close down an undertaking in cases where at the commencement of the Industrial Disputes (Amendment) Act, 1976 (Act 32 of 1976), the period of notice given under sub-section (1) of Section 25FFA of intention to close down an undertaking has not expired

Date.

To

The Secretary to Government,
Labour Department,
Trivandrum.

Sir,

I/We have given notice on............................under sub-section (1) of section 25FFA of our intention to close down an undertaking specified below of

(name of industrial establishment)

(Attested copy of the notice is appended hereto)

(Give details of the undertaking)

____

____

____

2. The period of notice referred to above has not expired.

3. I/We hereby solicit permission to close down the said undertaking under sub-section (3) of section 25-O of the Industrial Disputes Act, 1947 (14 of 1947) for the reasons set out in the Annexure.

4. I/We hereby declare that in the event of permission for the closure being granted every workman in the undertaking to whom sub-section (7) of the said section 25-O applies will be given notice and paid compensation as specified in section 25N of the Industrial Disputes Act, 1947 (14 of 1947) as if the workman had been retrenched under that section.

Yours Faithfully,

(Signature)

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the industrial establishment with complete postal address, including telegraphic addresses and telephone number

1A. Name(s) of Regsitered Trade Union(s)

2. Date of the notice under sub-section (1) of section 25FFA and the date on which the said notice was served on the appropriate Government

3. The total number and categories of workmen affected by the proposed closure, along with the addresses of the workmen and the details of wages drawn by them

4. Product/products of the undertaking

5. Details relating to licensed capacity, installed capacity and the utilised capacity

6. (i) Annual production item-wise for preceding three years

   (ii) Production figures month-wise for the preceding twelve months

7. Work in progress—item-wise and value-wise

8. Any arrangement regarding off-loading or sub-contracting of products or any component thereof

9. Details of persons or the organisations to whom the job(s) is (are) being entrusted—relationship/interest of the persons/organisations with the director(s) or the officer(s) of the company

10. Position of the order book—item-wise and value-wise; for a period of six months, and one year, next following and for the period after the expiry of the said one year

11. Number of working days in a week with the number of shifts per day and the strength of workmen for each shift

12. Balance sheet and profit and loss account and audit reports for the last three years

13. Financial position of the company

14. (i) Names of any inter-connected company or companies under the same management

(ii) Details about inter-corporate investments and changes during the last one year

(iii) Interest of any of the directors/officers of the undertaking producing same or similar type of product

15. Percentage of wages of workmen to the total cost of production

16. Administrative, general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost

17. Inventory position—item-wise and value-wise for the preceding twelve months. (Inventories to be shown in respect of finished products, components and raw-materials to be shown separately item-wise and value-wise)

18. Selling arrangement for the last three years and any change in the selling arrangement in preceding twelve months

19. Full details of the interests of the directors and officers of the company in the organisations/persons involved in selling products of the undertaking
20. Buying arrangements for raw materials and components
21. Interests of the directors and officers with the organisations/persons involved in buying raw materials and components for the undertaking
22. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months, both item-wise and value-wise
23. Reasons for the proposed closure
24. Any specific attempts made so far to avoid the closure
25. Any other relevant factors with details thereof."

By order of the Governor,

U. MAHABALA RAO,

Secretary to Government.

Explanatory Note

(This is not part of the notification but is intended to indicate the general purport).

By Act 32 of 1976, Government of India have introduced certain new clauses in the Industrial Disputes Act, 1947. To implement these new clauses it has become necessary to incorporate the above rules and forms in the Kerala Industrial Disputes Rules by amending the existing rules. This notification is intended to achieve this purpose.

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Government of Kerala
1976

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXI] Trivandrum, Saturday, 13th March 1976 / 23rd Phalguna 1897 [No. 157

NOTICE

Under Section 9(5) of the Kerala Land Acquisition Act, 1961 (Act 21 of 1962)

No. B-240/75. *1st March 1976.*

Notice is hereby given that the Government intend to take possession of the land mentioned in the list below, which is required for a public purpose under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962). All persons interested in the land are required to appear in person or by authorised agent on 19-3-1976 at 10 a. m. before the Special Tahsildar for (L. A.) (NH), Alleppey and to state/put in a statement in writing signed by themselves or their agents showing the nature of their respective interests in the land and the amount and particulars of their claim to compensation for such interests in the land and their objections, if any to the measurements made under section 8 of the Act.

Note.—If the persons interested refuse to make a claim to compensation or omit without sufficient reasons, to make such claim, the amount to be awarded by the Court, in the event of a reference being made to it on application made by them shall in no case exceed the amount awarded by the Collector under Section 11 of the Act.

താഴെ കൊടുത്തിരിക്കുന്ന ലിസ്റ്റിൽ പറഞ്ഞിട്ടുള്ളതും, 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21-ാം ആക്റ്റ്) പ്രകാരം ഒരു പൊതുക്കാര്യത്തിന് ആവശ്യമായിട്ടുള്ളതുമായ ഭൂമി കൈവശപ്പെടുത്തുവാൻ ഗവൺമെന്റുദ്ദേശിക്കുന്നുവെന്ന് ഇതിനാൽ നോട്ടീസ് നൽകിയിരിക്കുന്നു. പ്രസ്തുത ഭൂമിയിൽ അവകാശബന്ധമുള്ള എല്ലാപേരും നേരിട്ടോ, അധികൃത

ഏജൻറുമുഖേനയോ 19-3-1976 രാവിലെ 10 മണിക്ക് ആലപ്പുഴ ലാൻറ് അക്വിസിഷൻ സ്പെഷ്യൽ തഹശീൽദാർ മുമ്പാകെ ഹാജരാകുകയും, ഭൂമിയിൽ അവരവരോരോരുത്തർക്കുമുള്ള അവകാശബന്ധങ്ങളുടെ സ്വഭാവവും ഭൂമിയിൽ അങ്ങനെയുള്ള അവകാശബന്ധങ്ങൾ സംബന്ധിച്ചിടത്തോളം നഷ്ടപ്രതിഫലത്തിന് അവർക്കുള്ള തേർച്ചയുടെ തുകയും, വിവരങ്ങളും ആക്ററ് 8-ാംവകുപ്പു പ്രകാരം എടുത്തിട്ടുള്ള അളവു സംബന്ധിച്ച് വല്ല ആക്ഷേപവുമുണ്ടെങ്കിൽ അതും ഏതാണെന്നു കാണിച്ചുകൊണ്ട് പ്രസ്താവന ചെയ്യുകയും അവരോ അവരുടെ ഏജൻറുമാരോ എഴുതി ഒപ്പിട്ട ഒരു സ്റ്റേററുമെൻറ് സമർപ്പിക്കുകയും ചെയ്യണമെന്ന് അവരോട് ആവശ്യപ്പെടുന്നു.

കുറിപ്പ്.—അവകാശബന്ധമുള്ളവർ നഷ്ടപ്രതിഫലത്തിന് തേർച്ച ചെയ്യാൻ കൂട്ടാക്കാതിരിക്കുകയോ, മതിയായ കാരണമില്ലാതെ അങ്ങനെ തേർച്ച ചെയ്യാൻ വീഴ്ച ചെയ്യുകയോ ചെയ്യുന്ന പക്ഷം അവരുടെ അപേക്ഷയിന്മേൽ കോടതിക്ക് റഫറൻസ് അയയ്ക്കുന്ന സംഗതിയിൽ കോടതി വിധിച്ചു കൊടുക്കേണ്ട തുക യാതൊരു സംഗതിയിലും ആക്ററ് 11-ാം വകുപ്പുപ്രകാരം കളക്ടർ വിധിച്ചുകൊടുക്കുന്ന തുകയിൽ കവിയാൻ പാടില്ലാത്തതാകുന്നു.

Particulars of Land

District—Alleppey. *Taluk*—Karthikappally.

Village	*Survey No.*	*Description*	*Extent in*	
			Are	*Sq. m.*
Karthikappally	267/7	Dry	02	09
	267/8	Wet	00	69
	267/9	Dry	01	61
	267/10	Dry & Wet	04	65
	267/11	Dry	00	79
	205/A4	,,	02	45
	211/5	,,	00	23
Kumarapuram	3775/3	Dry & Wet	00	60
	3775/5	Dry	00	40
	3775/6	,,	02	15
	3775/7	,,	01	01
	3912/4	,,	01	50
	3912/5	,,	01	23
	3611/2	,,	01	18
	3611/3	,,	03	24
	3741/A6	,,	00	11
	3741/A7	,,	00	13
	3741/A8	,,	00	14

Village	*Sy. No.*	*Description*	*Extent in*	
			Are	*Sq.m.*
	3471/B6	Dry	00	32
	3607/5	,,	01	25
	3610/5	,,	01	21
	746/8	Wet	03	20
Harippad..	H. 1987/A5	Dry	01	42
Keerikkad	468/3	,,	01	85
District:—Alleppey.			*Taluk:—Ambalapuzha.*	
Punnapra	76/15A2	,,	02	48

(Sd.)
Special Tahsildar for L.A.
(National Highways),.

Alleppey.

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TRIVANDRUM, 1976

Government of Kerala
1976

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 2423/LA4/76. *Dated, Trivandrum, 13th March 1976.*

The Kerala Nurses and Midwives Bill, 1976, together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1136/MC.

Fourth Kerala Legislative Assembly

Bill No. 254

THE KERALA NURSES AND MIDWIVES BILL, 1976

A

BILL

to provide for the training and registration of nurses, midwives, auxiliary nurse-midwives, health visitors and dhais in the State of Kerala.

Preamble.—WHEREAS it is expedient to provide for the registration and training of nurses, midwives, auxiliary nurse-midwives, health visitors and dhais in the State of Kerala;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Nurses and Midwives Act, 1976.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Council" means the Kerala Nurses and Midwives Council established under section 3;

(b) "institution" means any association which maintains or controls an establishment for training nurses, midwives, auxiliary nurse-midwives, health visitors or dhais and which is recognised by the council;

(c) "nurse" includes male nurse;

(d) "president" means president of the council;

(e) "qualified registered nurse or midwife" means a nurse or midwife registered under Part A of the Register maintained under this Act;

(f) "register" means the register of nurses or register of midwives or the register of auxiliary nurse-midwives or the register of health visitors or the register of dhais maintained under this Act;

(g) "registered" means registered or deemed to be registered under this Act;

(h) "Registrar" means the Registrar appointed under section 18;

(i) "regulations" means regulations made by the council under this Act;

(j) "rules" means rules made by Government under this Act;

CHAPTER II

THE COUNCIL

3. *Establishment, incorporation and constitution of the Council.*—(1) The Government shall, by notification in the Gazette, establish a Council to be called the Kerala Nurses and Midwives Council for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate, having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The council shall consist of the following members, namely:—

(a) The Director of Health Services, and the Assistant Director of Health Services (Maternity and Child Health) to be, ex-officio members.

(b) One member each elected by the members of the Council of Modern Medicine, and the Council of Homoeopathic Medicine, constituted under section 3 of the Kerala Medical Practitioners Act or such other relevant Act in force from time to time.

(c) Four members nominated by the Government of whom one shall be a Professor of Gynaecology in a Government Medical College in the State, one shall be the Superintendent of a Women and Children's Hospital in the State, one shall be the Superintendent of a Government Nursing School in the State and one shall be the Matron or Superintendent of a major hospital in the State.

(d) Four members elected by the qualified registered nurses from among the nurses registered in Part A of the register of nurses, of whom atleast one shall be a member of the Trained Nurses Association of India registered in the State of Kerala, one shall be a member of the Kerala Government Nurses Association and one nurse working in a Private hospital in the State.

(e) One member elected by the qualified registered midwives from among the midwives registered in Part A of the Register of Midwives.

(f) One member elected by the registered auxiliary nurse-midwives from among the auxiliary nurse-midwives registered in the register of auxiliary nurse-midwives.

(g) One member elected by the registered health visitors from among the health visitors registered in the register of health visitors.

4. *Nomination of members in default of election.*—If any of the members mentioned in clause (b), clause (d), clause (e), clause (f) or clause (g) of sub-section (2) of section 3 is not elected, the Government may, nominate such member, registered nurse, registered midwife, registered auxiliary nurse-midwife or registered health visitor as they may deem fit, and the member or members so nominated shall be deemed to have been duly elected under clause (b), clause (d), clause (e), clause (f) or clause (g) of sub-section (2) of section 3, as the case may be.

5. *Nomination of members of the first council.*—Notwithstanding anything contained in sections 3 and 4 in the case of the first Council established under this Act, all the members other than the ex-officio members shall be nominated by the Government.

6. *Disqualification for membership.*—A person shall be disqualified for being elected or nominated as, and for being a member of the council.—

(a) if he is not a resident of the State of Kerala;

(b) if he has not attained the age of majority;

(c) if he is an undischarged insolvent;

(d) if he is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;

(e) if he has been dismissed from service under any Government;

(f) if his name has been removed from any one of the registers maintained under this Act or the Travancore-Cochin Medical Practitioners Act, 1953 or the Madras Medical Registration Act, 1914 or such other relevant Act in force from time to time and he has not been reinstated.

7. *Term of office of members.*—(1) Save as otherwise provided in this Act, the term of office of the members other than the ex-officio members shall,—

(a) in the case of the first Council constituted under this Act, before a period of three years commencing from the date on which the first meeting of such council is held; and

(b) in the case of any council other than the first council constituted under this Act, for a period of five years from the date on which the first meeting of such council is held;

(2) An outgoing member shall continue in office until the election or nomination, as the case may be, of his successor.

(3) An outgoing member shall be eligible for re-election or re-nomination if otherwise qualified.

8. *Vacancies.*—Vacancies in the office of the elected or nominated members of the council shall be filled by election or nomination, as the case may be. Any person elected or nominated to fill the vacancy shall, notwithstanding anything contained in section 7, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred:

Provided that it shall be lawful for the council to exercise its powers under this Act, notwithstanding such vacancy.

9. *President and Vice-President.*—(1) The Government shall nominate one of the members of the council to be its President.

(2) The Council shall elect one of its members other than the President to be its Vice-President.

(3) The President or the Vice-President shall be deemed to have vacated his office on resignation or on the expiry of his term of office as a member or on his otherwise ceasing to be a member.

(4) When the Office of the President is vacant the Vice-President shall exercise the function of the President until a new President assumes office.

(5) When the Office of the President is vacant or the President is incapacitated and there is either a vacancy in the office of the Vice-President or the Vice-President is incapacitated, the Registrar shall after giving notice of not less than seven clear days to the members of the Council convene a meeting for the election of a President if there is a vacancy in that office, and until a new President or Vice-President is elected and assumes office or either the President or the Vice-President recovers from his incapacity as the case may be, the Director of Health Services shall, notwithstanding anything contained in this Act, be ex-officio President of the Council.

(6) An outgoing President or Vice-President shall be eligible for re-nomination or re-election, if otherwise qualified.

Explanation.—A new President or Vice-President shall be deemed to have assumed office on his being nominated or declared elected as such.

10. *Appointments to be notified in the Gazette.*—All elections, nominations and appointments of the President, Vice-President, Ex-Officio members, members of the Council and the Registrar shall be notified in the Gazette.

11. *Cessation of membership.*—A member of the Council other than an *ex-officio* member shall be deemed to have vacated his seat,—

(a) subject to the provision of sub-section (2) of section 7, on the expiry of the term of office;

(b) on resignation;

(c) on absence, without excuse sufficient in the opinion of the council, from three consecutive meetings of the council;

(d) on becoming subject to any of the disqualifications mentioned in section 6;

(e) in the case of a member elected by the council of modern medicine or the council of homoeopathic medicine if he ceases to be a member of that council.

12. *Resignation of membership.*—Any member other than an ex-officio member or the Vice-President may at any time resign his office by giving notice in writing to the President, and the President may resign his office by giving notice in writing to the council. Such resignation shall take effect in the case of a member or Vice-President from the date on which it is received by the President; and in the case of the President, from the date on which it is placed before the Council.

13. *Validity of Proceedings.*—(1) No disqualification or defect in the election or nomination of any person acting as a member of the Council or as President or Vice-President or presiding member of a meeting shall be deemed to invalidate any act or proceedings of the Council in which such persons has taken part.

(2) No act done by the Council shall be deemed to be invalid on the ground merely of the existance of any vacancy in or defect in the constitution of the Council.

14. *Meetings of the Council.*—The Council shall meet at such time and place and every meeting of the council shall be summoned by such person and in such manner as may be prescribed by regulations:

Provided that until such regulations are made, it shall be lawful for the President to summon a meeting of the council at such time and place as he may deem expedient by letter addressed to each member.

15. *Presidency at meetings of council and procedure thereat.*—(1) Every meeting of the council shall be presided over by the President; in his absence by the Vice-President; and in the absence of both the President and the Vice-President, by a member chosen by the members present at the meeting to preside for the occasion.

(2) The President shall preserve order and shall decide all points of order at or in connection with meetings. There shall be no discussion on any point of order and the decision of the President on any point of order shall be final.

(3) The Vice-President or member presiding for the occasion shall, for that meeting and during the period he presides over it, have all the powers of the President.

(4) All questions at a meeting of the council shall be decided by the votes of the majority of the members present and voting at the meeting. Five members shall form a quorum. If within half an hour from the time appointed for the meeting there is no quorum, the meeting shall stand adjourned to the same day in the following week at the same time and place and if at the adjourned meeting there is no quorum within half an hour from the time appointed for the meeting, the members present shall form a quorum.

(5) At every meeting of the council, the President shall, in addition to his vote as a member of the council, have a second or casting vote in case of equality of votes.

16. *Payment of fees and allowances.*—There shall be paid to the President, Vice-President and the other members of the council such fees and allowances for attendance in connection with the meeting of the council of any committee thereof and such travelling allowances as shall from time to time be prescribed.

17. *Executive Committee and other committees.*—(1) The council shall constitute from among its members an Executive Committee, and may so constitute other committees for such general or special purposes as the council may consider necessary for carring out its functions under this Act.

(2) The Executive Committee shall consist of the President and the Vice-President as Ex-Officio members and five other members elected by the council. The quorum of the Executive Committee shall be three.

18. *Registrar.*—(1) The Government shall after consulting the council, appoint a Registrar who shall be the Secretary to the Council. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Government may grant him leave and may appoint a person to act in his place.

(2) Subject to such rules as may be prescribed, the Council shall have power to punish the Registrar. Any order of the Council punishing the Registrar shall not take effect without the previous approval of the Government.

(3) The Council may appoint or employ such other officers and servants as it may deem necessary for the purposes of this Act:

Provided that the number and designations of such officers and servants and their salaries and allowances shall be subject to the previous approval of the Government.

(4) The method of appointment and conditions of service regarding pay, allowances, promotions, leave, pension, gratuity, provident fund and medical attendance relating to the officers and servants of the council shall be governed by the rules applicable to officers and servants of the Government of similar class.

(5) All the Officers appointed under sub-section (3) shall be under the direct control and supervision of the Registrar. The powers of the Registrar to dismiss, discharge or remove or to impose any other punishment on any officer or servant of the council shall be governed by such rules as may be made by the Government in that behalf.

(6) The Registrar and all the members of the staff appointed or employed under sub-sections (1) and (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

19. *Duties of the Registrar.*—(1) Subject to the provisions of this Act and to any general or special order of the council, it shall be the duty of the Registrar to keep the registers.

(2) There shall be separate registers for nurses, midwives, auxiliary nurse-midwives and health visitors. The registers shall be in such form and shall contain such particulars as may be prescribed. Each register shall be divided into two parts, Part A and Part B, Part A containing the names of those nurses, midwives, auxiliary nurse-midwives or health visitors who are eligible for registration under clause (i) of sub-section (1) of section 21 and Part B containing the names of those nurses or midwives who are

registered by virtue of clause (ii) of sub-section (1) of section 20 of the Nurses and Midwives Act, 1953. Each entry in the register shall be attested by the Registrar.

(3) The Government shall cause to be prepared a separate register for dhais in such form and containing such particulars as may be prescribed. The register shall be divided into two parts, Part A and Part B, Part A containing the names of dhais who are eligible for registration under clause (i) or clause (ii) of sub-section (1) of section 21 and Part B containing the names of those dhais registered under the Madras Nurses and Midwives Act, 1926, and holding appointments and practising in the Malabar district referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956).

(4) The Registrar shall keep the registers correct in accordance with the provisions of this Act and the rules and regulations made thereunder and shall remove from the registers, the names of those registered nurses, midwives, auxiliary nurse-midwives, health visitors and dhais who are dead or whose names are directed to be removed from the registers under the rules.

(5) The registers shall be deemed to be public documents under section 74 of the Indian Evidence Act, 1872.

20. *Default of council.*—(1) If at any time it shall appear to the Government that the council has failed to exercise or has exceeded or abused any of the powers conferred on it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the Government may, if they consider such failure, excess or abuse to be of a series character notify the particulars thereof to the council, and if the council fails to remedy such default, excess or abuse within such time as the Government may fix in this behalf, the Government may dissolve the council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as they may think fit and thereupon the funds and property of the council shall vest in the Government for the purpose of this Act until a new council shall have been constituted under section 3.

(2) When the Government have dissolved the council under sub-section (1), it shall take steps as soon as may be, to constitute a new council under section 3, and thereupon the property and funds referred to in sub-section (1) shall vest in the council so constituted.

CHAPTER III

REGISTRATION

21. *Eligibility for Registration.*—(1) Subject to the provisions of sub-section (2)—

(i) every person who has undergone such course of training and passed such examination as may be prescribed by rules for the purpose of conferring a right of registration as nurse, midwife, auxiliary nurse-midwife or health visitor or dhai under this Act, and

(ii) every dhai who has been trained as such for a period of not less than six months in a Government institution recognised by the Kerala Nurses and Midwives Council shall be eligible for registration under this Act.

(2) No person shall be eligible for registration under sub-section (1) if he is subject to any of the disqualifications mentioned in clauses (a) to (f) of section 6.

22. *Application for registration.*—(1) An application for registration under section 21 shall be in the prescribed form and shall be accompanied by a fee of Rs. 20 in the case of nurses, auxiliary nurse-midwives, health visitors and Rs. 10 in the case of midwive and dhais.

(2) every person entitled to be registered under this Act desiring to have himself so registered shall apply to the Registrar in the form prescribed accompanied by the fee prescribed.

(3) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register, he shall enter thereon the name of the applicant and issue him a certificate in such form and containing such particulars as may be prescribed.

23. *Appeal to the council against the order of the Registrar.*—Any person aggrieved by an order of the Registrar may within 3 months from the date on which notice of such order is served on him, appeal to the council against such order. Such appeals shall be accompanied by such fee as may be prescribed. Every order of the Registrar and the council regarding the refusal of registration shall be served by registered post.

24. *Appeal to the Government from the order under section 23.*—Any person aggrieved by an order of the council made under section 23 may within three months from the date on which notice of such

order is served on him, appeal to the Government against such order in such manner and subject to such conditions as may be prescribed by rules and the decision of Government on such appeal shall be final.

25. *Annual list of nurses, midwives, auxiliary nurse-midwives, health visitors and dhais.*—(1) The Registrar shall in every year on or before the date to be fixed by the council cause to be published in the Gazette a full or supplementary list of the names of all nurses, midwives, auxiliary nurse-midwives, health visitors and dhais registered under this Act.

(2) The Registrar shall from time to time cause to be published in the Gazette the names of nurses, midwives, auxiliary nurse-midwives, health visitors and dhais which have been duly removed under any of the provisions of this Act.

(3) In any proceedings it shall be presumed that every person whose name is entered in the list published under sub-section (1) is a registered nurse or registered midwife or registered auxiliary nurse-midwife, registered health visitor or registered dhai and that any person whose name is not so entered is not a registered nurse or registered midwife or registered auxiliary nurse-midwife, registered health visitor or registered dhai as the case may be:

Provided that in the case of a person whose name has been entered in the register after the publication of the list, a certified copy signed by the Registrar of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

26. *Renewal fees.*—(1) For the retention of a name in a register after the expiry of five years from the date on which the name is first registered under this Act, there shall be paid for each five years to the Council such renewal fee as may be prescribed in respect of each register.

(2) The renewal fee payable under sub-section (1) shall be paid in such manner as may be prescribed before the 1st day of April following the expiry of the said period of five years.

(3) Where a renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on payment in such manner as may be prescribed of the renewal fee together with such fine as may be prescribed.

(4) On payment of the renewal fee and the fine, if any, the Registrar shall give a receipt in the prescribed form and such receipt shall be sufficient proof of the renewal of registration of the person concerned.

CHAPTER IV

MISCELLANEOUS

27. *Institutions for training nurses, midwives, auxiliary nurse-midwives, health visitors.*—(1) The institutions which are approved and recognised by the council after inspection by its representative shall be competent to train nurses, midwives, auxiliary nurse-midwives and health visitors and to send them for examination for the qualifying certificates recognised by the council.

(2) The council may withdraw recognition of any such institution after its inspection by a representative of the council. The order of such withdrawal shall be in writing and shall be served in the manner prescribed by rules.

28. *Appeal against refusal to recognise institutions under section 27.*—Any person aggrieved by the refusal of the council to approve and recognise any institution as competent to train nurses, midwives, auxiliary nurse-midwives or health visitors or by the order of the council withdrawing recognition of any such institution may appeal within three months from the date of service of notice of such refusal or of the order of withdrawal to the Government against such refusal or order of such withdrawal in such manner and subject to such conditions, and on payment of such fee as may be prescribed and the decision of the Government on such appeal shall be final.

29. *Inspection.*—The council may authorise the President, Vice-President, a member or the Registrar of the council to inspect places where the offences mentioned in the Act are reported to occur and to collect evidence including material evidence if required.

30. *Disability of unregistered persons.*—(1) No dispensary, hospital, infirmary, lying-in-hospital, sanatorium, surgery, nursing home or other similar institution shall employ any person as a nurse, midwife, auxiliary nurse-midwife, health visitor or dhai unless such person is a nurse, midwife, auxiliary nurse-midwife, health visitor or dhai registered under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

(3) whoever after having been convicted under sub-section (2) continues to contravene the provisions of sub-section (1) shall on conviction be punished for each day after the previous date of conviction during which he continues so to contravene, with fine which may extend to twenty rupees.

31. *Penalty for dishonest use of certificates.*—Any person who—

(a) dishonestly makes use of any certificate of registration issued under this Act to him or to any other person,

(b) procures or attempts to procure registration under this Act by making or producing or causing to be made of produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(c) Wilfully makes or causes to be made any false representation in any matter relating to the register of certificates issued under this Act, shall be punishable with fine which may extend to five hundred rupees.

32. *Nurses, midwives, auxiliary nurse-midwives, health visitors or dhais not registered under this Act not to practise.*—(1) No person other than a nurse, midwife, auxiliary nurse-midwife, health visitor or dhai registered under this Act shall practise or hold himself out either directly or by implication as a practising nurse, midwife, auxiliary nurse-midwife, health visitor or dhai:

Provided that the Government may, from time to time by notification in the Gazette direct that this section shall not apply to any person or class of persons or in any specified area for a specified period:

Provided further that this section shall not apply to a person eligible for registration under this Act who after having filed the application for registration under this Act is awaiting the decision of the Registrar or Council or of the Government in case of appeal.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

33. *Penalty for unlawful assumption of title of registered nurse, midwife, auxiliary nurse-midwife, health visitor or dhai.*—Any person who not being a registered nurse, midwife, auxiliary nurse-midwife, health visitor or dhai takes or uses the name or title of a registered nurse, midwife, auxiliary nurse-midwife, health visitor or dhai or uses any name, title, description, prescribed uniform, badge, object or sign board, with the intention that it may be believed or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife, auxiliary nurse-midwife, health visitor or dhai, shall be punishable with fine which may extend to five hundred rupees.

34. *Penalty for instrumental manipulations by nurse, midwife, auxiliary nurse-midwife, health visitor or dhai.*—Any nurse, midwife,

auxiliary nurse-midwife, health visitor or dhai who resorts to instrumental or intrauterine manipulations to effect delivery, shall be punishable with imprisonment which may extend to three months or with the fine which may extend to five hudred rupees or with both.

35. *Prohibition of unauthorised conferment.*—(1) Save as provided in this Act or the rules or regulations made thereunder, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or receipient is qualified to practise the profession of a registered nurse, midwife, auxiliary nurse-midwife, health visitor or dhai.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees; and if the person so contravening is an association, every member of such association who knowingly and wilfully authorises or permits the contravention, shall be punishable with fine which may extend to five hundred rupees.

36. *Power of Government to make rules.*—(1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed;

(b) with reference to all matters relating to the elections of the Vice-President and members of the council including election petitions and deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed fifty rupees;

(c) as to the manner in which vacancies shall he filled under section 8;

(d) as to the fees and other allowances payable to the President, Vice-President and the other members of the Council under section 16;

(e) as to the salary and allowances payable to the Registrar under section 18;

(f) as to the powers of the Registrar to punish the officers and servants appointed or employed under section 18 ;

(g) as to the form of the registers and the particulars to be entered therein under section 19;

(h) as to the form of application for registration and the form of certificate of registration and the particulars which they shall contain;

(i) as to the causes for which, the conditions under which and the manner in which the names of nurses, midwives, auxiliary nurse-midwives, health visitors or dhais may be removed or re-entered in register under section 26 and the manner in which order of removal or refusal shall be served on any such person;

(j) as to the fee payable in respect of an appeal under section 23 or section 24 or section 28 and the manner in which and the conditions subject to which such appeals shall be preferred;

(k) as to the manner in which an order of withdrawal of recognition of an institution shall be served under section 27;

(l) as to the furtherance of any of the objects of the council.

(3) All rules made under this section shall be published in the Gazette.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decide that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

37. *Power of Council to make regulations.*—(1) The Council may, with the previous sanction of the Government make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters, namely:—

(a) the time and place at which the Council shall hold its meetings and the manner in which and the person by whom such meetings shall be summoned;

(b) the courses of training and conduct of examinations and any matters ancillary to or connected with such matters;

(c) the recognition and approval of any institution for the purpose of such training and the granting of diploma or certificates to candidates passing the examinations;

(d) all other matters which may be necessary for the purposes of carrying out the objects of this Act.

(2) All regulations made under this section shall be published in the Gazette.

(3) The Government may, by notification in the Gazette, cancel any such regulations.

38. *Prosecution.*—Whenever the council is of the opinion that prosecution of any person for the contravention of any of the provisions of this Act is necessary, the council may by resolution recommend to the Government the institution of such prosecution and the Government may thereupon authorise in writing any officer or any member of the Council to initiate such prosecution.

39. *Jurisdiction of Magistrates.*—(1) No court inferior to that of a magistrate of the First Class shall try any offence punishable under this Act.

(2) No court shall take cognisance of any offence under this Act except on a complaint in writing of an officer authorised by the Government in this behalf.

40. *Jurisdiction of civil courts barred.*—No act done in the exercise of any power conferred by or under this Act on the Government, the council or the Registrar shall be questioned in any civil court.

41. *Nurses and midwives registered under the Nurses and Midwives Act, 1953, as amended, entitled to be registered under this Act.*—All nurses and midwives to whom certificates of registration have been issued under the Nurses and Midwives Act, 1953, shall be entitled to be registered under this Act without any application being made in that behalf and without payment of any fee, and the Registrar shall, as soon as may be after the commencement of this Act, register the names of such nurses and midwives in the appropriate registers.

42. *Repeal.*—The Nurses and Midwives Act, 1953 (Act 10 of 1953) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The law relating to the registration and training of nurses, midwives, health visitors and auxiliary nurse midwives applicable to the State of Kerala is contained in the Nurses and Midwives Act, 1953 (10 of 1953). According to sub-section (2) of section 3 of that Act, the Kerala Nurses and Midwives Council shall consist of twenty-one members. It is considered that the number of members in the Council is too large and that it should be reduced to sixteen providing representation to different categories on a rational basis.

2. There is no provision in the Act enabling the Council to constitute committees from among its members for such general or special purposes as the Council may consider necessary for carrying out its functions under the Act. Consequently, the Council has to be convened very often to take decisions on every matter to be decided by the Council. In order to avoid unnecessary expenditure and delay, it is considered necessary to empower the Council to constitute an executive committee and other committees for such general or special purposes as the Council may consider necessary for the speedy disposal of its functions under the Act.

3. The Indian Nursing Council has recommended that suitable provisions might be made in the State Act for the renewal of registration of nurses, midwives, etc. It is proposed to accept this recommendation and to make suitable provisions for the purpose.

4. The Bill seeks to enact a new legislation on the lines of the Nurses and Midwives Act, 1953, with the modifications mentioned above and certain other modifications which are found necessary.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Government to establish the Kerala Nurses and Midwives Council for the purpose of carrying out the provisions of the proposed Act. Clause 5 seeks to empower the Government to nominate all the members of the first Council except the ex-officio members. Under sub-clause (3) of clause 19 the Government have power to make rules specifying the form of the register for dhais and the particulars which such register should contain. Clause 26 seeks to empower the Government to

prescribe renewal fee for retention of a name in a register after 5 years, the manner in which such renewal fee is to be paid and the form of the receipt to be given on payment of the renewal fee. The first proviso to sub-clause (1) of clause 32 seeks to empower the Government to direct that the provisions of the clause shall not apply to any person or class of persons or in any specified area for a specified period. Clause 36 seeks to empower the Government to make rules for carrying out the purposes of the Act. The matters in respect of which rules may be made relate *inter alia* to the election of the President and other members of the Council, deposits to be made by candidates standing for election, the conditions under which such deposits may be forfeited, the manner of filling up of vacancies, the fees and other allowances payable to the President, Vice-President and other members, the powers of the Registrar to punish officers and servants, the form of application for registration and the particulars to be contained therein, the causes for which and the conditions under which names of nurses, midwives, etc., may be removed or re-entered in the register and the fee payable in respect of appeals. Clause 37 seeks to empower the council to make regulations with the previous sanction of the Government. The matters in respect of which regulations may be made relate *inter alia* to the convening of the meeting of the Council, the courses of training, conduct of examinations and recognition and approval of training institutions for nurses and midwives.

The matters in respect of which notifications may be made or rules or regulations may be made are matters of administrative or routine nature or matters of detail. Further the rules after they are made are subject to the scrutiny of the Legislative Assembly. The delegation of the Legislative power is thus of a normal nature.

N. K. BALAKRISHNAN

Government of Kerala
1976

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 20779-Leg (C) 1/75/Law. *Dated, Trivandrum, 13th March, 1976/ 23rd Phalguna, 1897.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 13th day of March, 1976.

By order of the Governor,

K. Viswanathan Nair,

Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1090/MC.

ACT 1 OF 1976

THE KERALA UNIVERSITY (AMENDMENT) ACT, 1976

An Act further to amend the Kerala University Act, 1974.

Preamble.—WHEREAS it is expedient further to amend the Kerala University Act, 1974, for the purpose hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala University (Amendment) Act, 1976.

2. *Amendment of section 17.*—In section 17 of the Kerala University Act, 1974 (17 of 1974) (hereinafter referred to as the principal Act), in item (2) under the heading "Elected Members", for the words "not being teachers", the words, brackets and figures "not being persons eligible to be elected under item (1), (4), (5), (6), (9), (10), (11), or (12) or under item (1), (4), (5), (6), (9), (10), (11) or (12) under the heading "Elected Members" in section 17 of the Calicut University Act, 1975" shall be substituted.

3. *Repeal and saving.*—(1) The Kerala University (Amendment) Ordinance, 1975 (9 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 30th day of September, 1975.

Government of Kerala
1976

KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 2229/Leg. (C) 1/76/Law. *Dated, Trivandrum, 13th March, 1976/ 23rd Phalguna, 1897.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 13th day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1091/MC.

ACT 2 OF 1976

THE CALICUT UNIVERSITY (AMENDMENT) ACT, 1976

An Act to amend the Calicut University Act, 1975.

Preamble.—WHEREAS it is expedient to amend the Calicut University Act, 1975, for the purpose hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Calicut University (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 20th day of September, 1975.

2. *Amendment of section 17.*—In section 17 of the Calicut University Act, 1975 (5 of 1975) (hereinafter referred to as the principal Act), in item (2) under the heading "Elected Members", for the words "not being teachers", the words, brackets and figures "not being persons eligible to be elected under item (1), (4), (5), (6), (9), (10), (11) or (12) or under item (1), (4), (5), (6), (9), (10), (11) or (12) under the heading "Elected Members" in section 17 of the Kerala University Act, 1974" shall be substituted.

3. *Repeal and saving.*—(1) The Calicut University (Amendment) Ordinance, 1975 (8 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.